

PERFORMANCE AUDIT
OF THE
LEGAL AND HEARINGS DIVISION

DEPARTMENT OF TREASURY

March 2000

EXECUTIVE DIGEST

LEGAL AND HEARINGS DIVISION

INTRODUCTION

This report, issued in March 2000, contains the results of our performance audit* of the Legal and Hearings Division, Department of Treasury.

AUDIT PURPOSE

This performance audit was conducted as part of the constitutional responsibility of the Office of the Auditor General. Performance audits are conducted on a priority basis related to the potential for improving effectiveness* and efficiency*.

BACKGROUND

The Legal and Hearings Division is responsible for conducting informal conferences* with taxpayers who disagree with notices of intent to assess additional tax. The Division also hears cases involving non-intent matters, including denial of claim for refund, claim for exemption from certain school taxes, notice of tobacco seizure, and denial of applicable tax credit certification for community foundations and institutions of higher learning.

The informal conferences conducted by the Division are the first stage of the appeal process. If a taxpayer disagrees with the determination made by the Department

* See glossary at end of report for definition.

in the informal conference process, the taxpayer may appeal to either the Michigan Court of Claims or the Michigan Tax Tribunal.

The Division also provides research and training to tax divisions and prepares Revenue Administrative Bulletins, Letter Rulings, and administrative rules. In addition, the Division processes applications from community foundations seeking the Single Business Tax and Individual Income Tax Credits, approves applications from Michigan institutions of higher learning for the Michigan College Tuition and Fees Credit, and certifies homeless shelters for the Homeless Shelter/Food Bank Credit.

The Division administers the Disclosure Program* for the transmittal of confidential tax return information by the Department to various federal, State, and local governmental entities. The Division is responsible for ensuring that taxpayer information is safeguarded and disclosed only for purposes provided for in Section 205.28 of the *Michigan Compiled Laws* and under the terms of the Internal Revenue Service agreement.

The Division had 15 full-time employees as of September 30, 1998 and expended approximately \$892,400 in fiscal year 1997-98.

**AUDIT OBJECTIVES
AND CONCLUSIONS**

Audit Objective: To assess the effectiveness of the Division's taxpayer appeals, tax research, and disclosure processes.

Conclusion: The Division was generally effective in the administration of its taxpayer appeals, tax research, and disclosure processes. However, we noted reportable

* See glossary at end of report for definition.

conditions* in the areas of the disclosure of taxpayer information, continuous quality improvement process, records of results of the appeal process, active case reconciliation, accounts in tax divisions, and internal control* (Findings 1 through 6).

Audit Objective: To assess the Division's compliance with applicable statutes, rules and regulations, and Department policies and procedures.

Conclusion: The Division was generally in compliance with applicable statutes, rules and regulations, and Department policies and procedures.

AUDIT SCOPE AND
METHODOLOGY

Our audit scope was to examine the program and other records of the Legal and Hearings Division. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Our review and testing of Division records and procedures was primarily limited to the period August 1, 1995 through July 31, 1998 for the taxpayer appeals process and the period October 1, 1997 through July 31, 1998 for the tax research and disclosure processes.

Our audit methodology included an assessment of the mission*, goals*, and objectives* of the Division as specified in its strategic plan, including discussions with Division personnel related to the overall goals and objectives of the Division.

* See glossary at end of report for definition.

We reviewed the Division's determinations made for initialized cases, its monitoring of active and inactive cases, and its controls for reconciling records of active cases with the Collection Division's assessment records.

We examined the Division's activities associated with the review of community foundations for the Single Business Tax and Individual Income Tax Credits, Michigan institutions of higher learning for the Michigan College Tuition and Fees Credit, and homeless shelters for the Homeless Shelter/Food Bank Credit.

We reviewed the Division's procedures and internal controls for processing disclosure requests.

**AGENCY RESPONSES
AND PRIOR AUDIT
FOLLOW-UP**

Our audit report contains 6 findings and 6 corresponding recommendations. The Department generally agreed with the recommendations. However, the Department stated that, in some instances, a faulty computer system was the cause of problems and that a new, redesigned system would allow the Department to address the audit recommendations.

The Department did not comply with the 3 prior audit recommendations included within the scope of our current audit. We repeated the 3 prior audit recommendations in this report.

Mr. Mark A. Murray
State Treasurer
Treasury Building
Lansing, Michigan

Dear Mr. Murray:

This is our report on the performance audit of the Legal and Hearings Division, Department of Treasury.

This report contains our executive digest; description of agency; audit objectives, scope, and methodology and agency responses and prior audit follow-up; comments, findings, recommendations, and agency preliminary responses; description of survey and summary of survey responses, presented as supplemental information; and a glossary of acronyms and terms.

Our comments, findings, and recommendations are organized by audit objective. The agency preliminary responses were taken from the agency's responses subsequent to our audit fieldwork. The *Michigan Compiled Laws* and administrative procedures require that the audited agency develop a formal response within 60 days after release of the audit report.

We appreciate the courtesy and cooperation extended to us during this audit.

Sincerely,

Thomas H. McTavish, C.P.A.
Auditor General

This page left intentionally blank.

TABLE OF CONTENTS

LEGAL AND HEARINGS DIVISION DEPARTMENT OF TREASURY

INTRODUCTION

	<u>Page</u>
Executive Digest	1
Report Letter	5
Description of Agency	8
Audit Objectives, Scope, and Methodology and Agency Responses and Prior Audit Follow-Up	9

COMMENTS, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

Effectiveness of Processes	11
1. Disclosure of Taxpayer Information	11
2. CQI Process	14
3. Records of Results of the Appeal Process	15
4. Active Case Reconciliation	17
5. Accounts in Tax Divisions	18
6. Internal Control	20
Compliance With Laws and Regulations	21

SUPPLEMENTAL INFORMATION

Description of Survey	23
Summary of Survey Responses	24

GLOSSARY

Glossary of Acronyms and Terms	29
--------------------------------	----

Description of Agency

The Legal and Hearings Division is responsible for conducting informal conferences with taxpayers who disagree with notices of intent to assess additional tax. An intent to assess additional tax may arise from an audit by field staff or may originate in another tax division (e.g., the Sales, Use, and Withholding Taxes Division or the Single Business Tax Division).

The Legal and Hearings Division also hears cases involving non-intent matters, including denial of claim for refund, claim for exemption from certain school taxes, notice of tobacco seizure, and denial of applicable tax credit certification for community foundations and institutions of higher learning.

The informal conferences conducted by the Division are the first stage of the appeal process. If a taxpayer disagrees with the determination made by the Department of Treasury in the informal conference process, the taxpayer may appeal to either the Michigan Court of Claims or the Michigan Tax Tribunal.

The Division also provides research and training to tax divisions and the Revenue Commissioner's Office for taxes administered by the Department. The Division prepares Revenue Administrative Bulletins, Letter Rulings, and administrative rules for publication in the *Michigan Tax Guide*. In addition, the Division processes applications from community foundations seeking the Single Business Tax and Individual Income Tax Credits; approves applications from Michigan universities, independent colleges, and community colleges for the Michigan College Tuition and Fees Credit; and certifies homeless shelters for the Homeless Shelter/Food Bank Credit.

The Division administers the Disclosure Program for the transmittal of confidential tax return information by the Department to various federal, State, and local governmental entities and responds to judicial orders for production of tax records. The Division is responsible for ensuring that taxpayer information is safeguarded and disclosed only for purposes provided for in Section 205.28 of the *Michigan Compiled Laws* and under the terms of the Internal Revenue Service agreement.

The Division had 15 full-time employees as of September 30, 1998 and expended approximately \$892,400 in fiscal year 1997-98.

Audit Objectives, Scope, and Methodology and Agency Responses and Prior Audit Follow-Up

Audit Objectives

Our performance audit of the Legal and Hearings Division, Department of Treasury, had the following objectives:

1. To assess the effectiveness of the Division's taxpayer appeals, tax research, and disclosure processes.
2. To assess the Division's compliance with applicable statutes, rules and regulations, and Department policies and procedures.

Audit Scope

Our audit scope was to examine the program and other records of the Legal and Hearings Division. Our audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and, accordingly, included such tests of the records and such other auditing procedures as we considered necessary in the circumstances.

Audit Methodology

Our audit procedures were performed during July through October 1998. Our review and testing of Division records and procedures was primarily limited to the period August 1, 1995 through July 31, 1998 for the taxpayer appeals process and the period October 1, 1997 through July 31, 1998 for the tax research and disclosure processes.

Our audit methodology included an assessment of the mission, goals, and objectives of the Division as specified in its strategic plan, including discussions with Division personnel related to the overall goals and objectives of the Division.

We assessed the Division's informal conference process by reviewing the Division's determinations made for initialized cases, its monitoring of active and inactive cases, and its controls for reconciling records of active cases with the Collection Division's assessment records.

To evaluate the Division's tax research process, we examined the Division's activities associated with processing applications from community foundations seeking the Single Business Tax and Individual Income Tax Credits; approving applications from Michigan universities, independent colleges, and community colleges for the Michigan College Tuition and Fees Credit; and certifying homeless shelters for the Homeless Shelter/Food Bank Credit.

To evaluate the Division's disclosure process, we reviewed the Division's procedures and internal controls for processing disclosure requests.

Agency Responses and Prior Audit Follow-Up

Our audit report contains 6 findings and 6 corresponding recommendations. The Department generally agreed with the recommendations. However, the Department stated that, in some instances, a faulty computer system was the cause of problems and that a new, redesigned system would allow the Department to address the audit recommendations.

The agency preliminary response which follows each recommendation in our report was taken from the agency's written comments and oral discussion subsequent to our audit fieldwork. Section 18.1462 of the *Michigan Compiled Laws* and Department of Management and Budget Administrative Guide procedure 1280.02 require the Department of Treasury to develop a formal response to our audit findings and recommendations within 60 days after release of the audit report.

The Department did not comply with the 3 prior audit recommendations included within the scope of our current audit. We repeated the 3 prior audit recommendations in this report.

COMMENTS, FINDINGS, RECOMMENDATIONS, AND AGENCY PRELIMINARY RESPONSES

EFFECTIVENESS OF PROCESSES

Audit Objective: To assess the effectiveness of the Legal and Hearings Division's taxpayer appeals, tax research, and disclosure processes.

Conclusion: The Division was generally effective in the administration of its taxpayer appeals, tax research, and disclosure processes. However, we noted reportable conditions in the areas of the disclosure of taxpayer information, continuous quality improvement (CQI) process, records of results of the appeal process, active case reconciliation, accounts in tax divisions, and internal control.

FINDING

1. Disclosure of Taxpayer Information

The Division did not consistently follow established internal control procedures related to maintaining written records of individuals designated to request confidential taxpayer information, confirming that requesting individuals are authorized to request taxpayer information prior to releasing the information, and documenting the disclosure officer's* approval of requests prior to releasing information.

The Division's Disclosure Program exists both to facilitate the transmittal of confidential tax return information by the Department of Treasury to various federal, State, and local governmental entities and to ensure that taxpayer information is safeguarded and disclosed only for appropriate purposes. Section 205.28 of the *Michigan Compiled Laws* and *Michigan Administrative Code* R 205.1004 prohibit disclosure of taxpayer information to other State agencies, unless it is required for the effective administration of State law upon written request from the head of the applicable State agency. In addition, *Michigan*

* See glossary at end of report for definition.

Administrative Code R 205.1003 requires that the Department keep records of non-Department employees who are granted access to confidential taxpayer information and that such information shall not be disclosed without proper authorization.

The Division informed us that its internal control procedures require it to formally establish a list of designated individuals from outside agencies who are allowed to request confidential taxpayer information. These designated individuals are required to approve individuals within their organizations who will actually review the taxpayer information. Thus, procedures call for the Division to verify that each request to access taxpayer information is approved by a designated individual prior to releasing the information. However, we noted the following instances in which the Division's internal control procedures over the Disclosure Program were not followed:

- a. The Division did not maintain a current, documented record of designated outside agency employees who were authorized to request taxpayer information on behalf of their organizations. Subsequent to our fieldwork, the Division informed us that it had an outdated list of designated individuals. The Division further informed us that a high turnover of designated State officials contributed to this lack of proper documentation. Without a current and documented record of designated agency employees, there is an excessive risk of inappropriate release of taxpayer information.

Our review of 183 disclosure requests during the period October 1, 1997 through July 31, 1998 disclosed 7 instances in which the Division had released taxpayer information to an outside agency employee who was unknown to Division staff. In the 7 instances, the signature from the agency's designated employee was not obtained. The Division later informed us that this individual's access to these records would have been appropriate with the proper designated agency employee's signature.

- b. The Division occasionally granted access to taxpayer information without documenting approval by the disclosure officer. Five of the 183 disclosure requests that we reviewed were released without the disclosure officer's signature.

A current record of designated outside agency employees authorized to request taxpayer information is a vital reference when fulfilling agency requests for taxpayer information. Checking each request to a current record of designated agency employees before releasing taxpayer information helps ensure that only the individuals designated by their agency receive confidential taxpayer information.

Our review of 183 disclosure requests did not identify anyone who accessed taxpayer information without an official need to ultimately review the information. However, unless the Division strictly adheres to its internal control procedures and documents such control, there is an unacceptable risk that this could occur.

RECOMMENDATION

We recommend that the Division consistently follow established internal control procedures related to maintaining written records of individuals designated to request confidential taxpayer information, confirming that requesting individuals are authorized to request taxpayer information prior to releasing the information, and documenting the disclosure officer's approval of requests prior to releasing information.

AGENCY PRELIMINARY RESPONSE

The Department agreed that seven C-5713 forms were filed with the disclosure officer without the authorized countersignature and, to some extent, it represented a deviance in generally accepted disclosure procedures. However, because of the many safeguards built into this entire process, the Department believes that it is very unlikely that another agency's employee would knowingly file a C-5713 form, considering the severe penalties for making an unauthorized request for tax return information. A C-5713 form requires the following information:

- (1) The name of the State agency and unit filing the C-5713 request form.
- (2) The name of the employee initiating the request.
- (3) The taxpayer name and any related account numbers.
- (4) The type of tax return information and tax years needed.

- (5) A description of the intended use of the information.
- (6) The signature of the employee filing the request. (This is generally optional as the form will be countersigned by the agency head designee.)
- (7) The countersignature of the agency head designee.

In the 7 requests discussed in part a. of the finding, all the information except the countersignature was provided. The Division agreed to improve its compliance with its internal control procedures.

EPILOGUE

Although the Department has developed protocol designed to protect the release of confidential taxpayer information, listing a taxpayer's name and account number, type of tax return, and tax year on Department form C-5713 does not represent a significant safeguard against inappropriate disclosure. In our opinion, the noncompliance rates in our sample indicate an unacceptable risk of inappropriate disclosure of confidential taxpayer information.

FINDING

2. CQI Process

The Division had not developed a CQI process to monitor and improve the effectiveness and efficiency of the services it provides to customers.

In Executive Directive 1996-1, the Governor requires State departments to use a CQI process to manage the use of limited State resources.

The Division did not initiate several measures necessary for ensuring the success of a CQI process:

- a. A mission statement to identify the Division's purpose, its customers, and the services needed by its customers.
- b. Goals or objectives to identify how the Division's mission will be accomplished.

- c. Performance standards* based on outcomes* to measure the Division's success in providing services and meeting the expectations and requirements of its customers.
- d. Complete and accurate performance data for management to monitor the Division's success in meeting desirable standards and customer expectations.
- e. Methods for communicating with customers to determine customer satisfaction and identify areas needing change or improvement.

A comprehensive CQI process that includes these items can improve the Division's ability to effectively and efficiently serve customers.

RECOMMENDATION

We recommend that the Division develop a CQI process to monitor and improve the effectiveness and efficiency of the services it provides to customers.

AGENCY PRELIMINARY RESPONSE

The Division is part of the Bureau of Revenue and, as such, has adopted the Bureau's mission statement as its own. Beginning in May 1999, the Division is participating in the Bureau's strategic plan development and implementation program. The Division believes this program meets all the criteria for a CQI process.

FINDING

3. Records of Results of the Appeal Process

The Division did not maintain records summarizing the results of the appeal process for completed cases.

Taxpayer appeals of tax assessments are resolved either by the appropriate tax division or by the Legal and Hearings Division, where decisions are made to affirm, cancel, or adjust the assessment. The disposition of cases handled by the Legal

* See glossary at end of report for definition.

and Hearings Division are made by referees* who conduct informal conferences with taxpayers. The revenue commissioner must approve or revise all recommendations made by the referees.

The Legal and Hearings Division maintained records and summarized the number of cases resolved by the various tax divisions and through informal conferences conducted by the Division. However, the Division did not summarize the number and dollar amounts of assessments affirmed, canceled, and adjusted for these completed cases. Therefore, it was not possible to completely gauge the magnitude or impact of the summarized activities.

Summary records documenting the methods used to complete cases (affirmed, canceled, or adjusted) and documenting the dollar value of these activities would help the Department evaluate the effectiveness of both the initial assessment process and the appeal process.

We reported a similar finding in the prior audit. In its November 12, 1992 response to that audit finding, the Department stated that it agreed with the recommendation and that a summary record of appeals would be included in its redesign of the Department of Treasury accounts receivable system.

RECOMMENDATION

WE AGAIN RECOMMEND THAT THE DIVISION MAINTAIN RECORDS SUMMARIZING THE RESULTS OF THE APPEAL PROCESS FOR COMPLETED CASES.

AGENCY PRELIMINARY RESPONSE

Prior to the initiation of the audit, Division personnel informed the auditors that the Division's computer system for tracking and compiling results of the appeal process was being redesigned and that the current system was not functioning adequately. While the Division had placed a request for a system redesign a number of years ago, the Department's information systems personnel were working on year 2000 compliance issues in order of criticality of functions. The

* See glossary at end of report for definition.

appeal process computer tracking system was pushed back to a lower priority. The redesigned system was brought on line as of October 1999. We believe that this system will allow the Division to address the recommendations of the auditors.

FINDING

4. Active Case Reconciliation

The Division did not reconcile its computer file of active cases with the Department's Collection Division cases in appeal status on a periodic basis.

When a taxpayer requests an informal conference from the Legal and Hearings Division, the Department's collection efforts against the taxpayer are suspended while the informal conference is pending. Once a taxpayer's case is heard and decided, the taxpayer's suspended collection status must be removed so that collection efforts may resume for any remaining tax still owed.

The Division did not reconcile its records of decided cases with the Collection Division's cases to ensure that collection efforts were resumed in all appropriate cases. Our review of all Collection Division cases in suspended collection status disclosed:

- a. As of September 24, 1998, 210 (11.8%) of the 1,780 cases in suspended collection status, totaling \$3,598,045, were brought to resolution. In each instance, the final tax liability was established, yet collection efforts remained suspended.
- b. Five assessments that were suspended from collection efforts while awaiting an informal conference had never been scheduled for an informal conference.

Unless the suspended collection status of cases is changed back to active collection status after final decisions are made, the assessment and collection of taxes may not occur on a timely basis or may not occur at all. Similarly, cases in suspended collection status in the Collection Division must be input into the Hearings Tracking System* so that an informal conference can be held. By

* See glossary at end of report for definition.

comparing the Hearings Tracking System to the Collection Division's cases in appeal status, the Division can help ensure that collection efforts will continue in all appropriate cases and that cases in suspended collection status are scheduled for informal conference or removed from suspended collection status so collection efforts may continue.

The Division informed us that it annually notifies the various tax divisions to change the collection status of the past year's completed cases. However, this practice does not supplant the need to reconcile the Collection Division's files with the Hearings Tracking System. Only by comparing the Division's data to Collection Division files will there be any assurance that all accounts that have been brought to resolution are having appropriate collection efforts resumed.

We reported a similar finding in the prior audit. In response to that audit finding, the Department stated that it agreed with the recommendation and would comply by December 31, 1992.

RECOMMENDATION

WE AGAIN RECOMMEND THAT THE DIVISION RECONCILE ITS COMPUTER FILE OF ACTIVE CASES WITH THE DEPARTMENT'S COLLECTION DIVISION CASES IN APPEAL STATUS ON A PERIODIC BASIS.

AGENCY PRELIMINARY RESPONSE

The Division does reconcile its computer file of active cases with the Department's Collection Division cases on a periodic basis; however, because of a faulty computer system, the Division did not fully reconcile all of its active cases. The Division believes that the new system will provide the Division with the ability to fully reconcile accounts on a periodic basis.

FINDING

5. Accounts in Tax Divisions

The Division did not sufficiently ensure that appeals being handled by the various tax divisions were either resolved or scheduled for an informal conference on a timely basis.

Tax assessment appeals are first forwarded by the Division to the appropriate tax division for settlement. If the tax division successfully settles the appeal, the resolution is entered in the Division's records and the case is closed. Department procedure PT-23015 states that the Division is to follow up on cases held at the tax divisions every 90 days. This procedure also specifies that the Division is to follow up every 60 days thereafter for cases in which the tax divisions did not respond to the Division's initial 90-day follow-up. Ultimately, if the tax division is not able to resolve the appeal, the case is returned to the Division for an informal conference.

The Division's records indicated that 399 active cases were in various tax divisions as of August 1998. Our review of 111 of these cases disclosed that 31 (28%) had been assigned to tax divisions for a period of time exceeding 180 days. Our review also disclosed that the Division's procedure for following up on cases expired on April 1, 1993. Although the Legal and Hearings Division periodically sends lists of pending cases to the various tax divisions for follow-up, we were informed by the Division that the system had not been generating accurate lists of pending cases, which resulted in tax divisions not following up on some older outstanding cases.

When a taxpayer appeals an assessment, collection efforts are suspended until the appeal is resolved. Therefore, it is important that taxpayer appeals be resolved in a timely manner. Maintaining accurate listings of pending cases and routinely using the lists to identify the need for follow-up and to schedule informal conferences can help the Division to ensure that taxpayer appeals are heard and resolved in a timely manner.

We reported a similar finding in the prior audit. In response to that audit finding, the Department stated that it agreed with the recommendation and would comply by December 31, 1992.

RECOMMENDATION

WE AGAIN RECOMMEND THAT THE DIVISION SUFFICIENTLY ENSURE THAT APPEALS BEING HANDLED BY THE VARIOUS TAX DIVISIONS ARE EITHER RESOLVED OR SCHEDULED FOR AN INFORMAL CONFERENCE ON A TIMELY BASIS.

AGENCY PRELIMINARY RESPONSE

The Division does have a process in place, which is followed by all staff, for checking to see that appeals in the tax divisions are either resolved or scheduled for conference. However, this system is dependent upon a faulty computer system that is badly in need of redesign and will not generate the necessary information. The Division does not fully reconcile all of its active cases in the tax divisions. The Division believes that the new system will provide the Division with the ability to fully reconcile accounts on a periodic basis.

The auditors noted that 31 cases had been in the divisions for a period of time exceeding 180 days. This does not necessarily mean that the Division is not following up on these cases. Often the tax divisions are able to make significant progress and resolve active cases only after receiving appropriate information from the taxpayer. This information exchange process can take 6 to 12 months before resolution results. The Division policy is not to schedule cases based on any arbitrary time deadline as long as the taxpayer and the tax division are actively working to resolve the matter.

FINDING

6. Internal Control

The Department had not implemented effective internal control to help ensure that taxpayer appeal information was complete, available, and properly maintained.

Section 18.1485 of the *Michigan Compiled Laws* requires that each principal department establish and maintain a system of practices to be followed in the performance of duties and functions. Effective management practices include establishing internal control to ensure that taxpayer appeal records are properly documented and maintained.

The Legal and Hearings Division, as well as other Department divisions, may possess certain taxpayer information that develops during the course of the tax appeal process. The Department did not maintain a central database or other alternative means to track all cases within its tax appeal process. As a result, the Legal and Hearings Division could not locate critical information in 17 (12%) of 139 taxpayer appeal cases that we tested.

Documentation improves accountability and helps to verify the appropriateness of appeals decisions after the fact. Accurate and complete taxpayer appeals records document whether taxpayers are provided a timely and objective appeal process and a fair decision.

RECOMMENDATION

We recommend that the Department implement effective internal control to help ensure that taxpayer appeal information is complete, available, and properly maintained.

AGENCY PRELIMINARY RESPONSE

The Division is taking steps to improve access to information for older, closed appeal cases.

COMPLIANCE WITH LAWS AND REGULATIONS

COMMENT

Audit Objective: To assess the Division's compliance with applicable statutes, rules and regulations, and Department policies and procedures.

Conclusion: The Division was generally in compliance with applicable statutes, rules and regulations, and Department policies and procedures.

SUPPLEMENTAL INFORMATION

Description of Survey

We sent a survey to a sample of taxpayers and their taxpayer representatives* who participated in an informal conference during the period October 1, 1995 through July 6, 1998. The survey focused on the timeliness and objectiveness of the services provided by the Legal and Hearings Division.

We mailed the survey to 148 taxpayers and 35 taxpayer representatives. We received 47 responses, a response rate of 26%. In general, the respondents had positive comments regarding the services provided and informal conferences conducted by the Legal and Hearings Division.

Following is a summary of the survey results that includes the number and percentage of responses received for each item. The total number of responses for each item may not agree with the total number of responses reported above because some questions were not answered by all respondents.

* See glossary at end of report for definition.

LEGAL AND HEARINGS DIVISION

Department of Treasury

Summary of Survey Responses

Number of surveys mailed	183
Number of responses	47
Response rate	26%

1. Have you ever participated in a tax hearing before a tax hearings referee through the Legal and Hearings Division (formerly Hearings and Tax Research Division), Department of Treasury, State of Michigan?

<u>32</u>	<u>68.1%</u>	Yes
<u>15</u>	<u>31.9%</u>	No

If you have **never** participated in a tax hearing before a tax hearings referee through the Legal and Hearings Division, Department of Treasury, State of Michigan, please answer only question 1 and skip the remaining questions.

2. Approximately when did you last participate in a tax hearing before a Department of Treasury tax hearings referee?

<u>18</u>	<u>56.2%</u>	Within the last year
<u>11</u>	<u>34.4%</u>	Between 1 and 2 years ago
<u>3</u>	<u>9.4%</u>	More than 2 years ago

3. What tax or taxes were in contention during your last tax hearing before a Department of Treasury tax hearings referee? (circle all that apply, if more than one)

<u>10</u>	<u>24.4%</u>	Single Business Tax
<u>16</u>	<u>39.0%</u>	Sales, Use and Withholding Taxes
<u>5</u>	<u>12.2%</u>	Individual Income Tax
<u>3</u>	<u>7.3%</u>	Interest and Penalty Only
<u>7</u>	<u>17.1%</u>	Others

4. From the time you first requested your tax hearing, how long did it take for the Department of Treasury to first **notify** you of the **scheduled date** of your tax hearing before a tax hearings referee?

<u>1</u>	<u>2.9%</u>	Within 1 month
<u>4</u>	<u>11.8%</u>	Between 1 and 2 months
<u>7</u>	<u>20.6%</u>	Between 2 and 3 months
<u>6</u>	<u>17.6%</u>	Between 3 and 6 months
<u>5</u>	<u>14.7%</u>	Between 6 and 12 months
<u>3</u>	<u>8.8%</u>	Over 12 months
<u>8</u>	<u>23.5%</u>	Not sure

5. Were you notified of your tax hearing at least 20 days before the actual date of your hearing?

<u>29</u>	<u>87.9%</u>	Yes
<u>1</u>	<u>3.0%</u>	No
<u>3</u>	<u>9.1%</u>	Not sure

6. Once the tax hearing was scheduled, was a change in the date or place of the hearing ever made?

<u>8</u>	<u>25.8%</u>	Yes
<u>22</u>	<u>71.0%</u>	No
<u>1</u>	<u>3.2%</u>	Not sure

If yes, who requested the change in date or place?

<u>7</u>	<u>77.8%</u>	I requested the change.
<u>2</u>	<u>22.2%</u>	The Department of Treasury requested the change.
<u>0</u>		Other

7. From the time you first requested a tax hearing, how long did it take for the Department of Treasury to actually hold your hearing before a tax hearings referee?

<u>2</u>	<u>5.9%</u>	Within 1 month
<u>2</u>	<u>5.9%</u>	Between 1 and 2 months
<u>3</u>	<u>8.8%</u>	Between 2 and 3 months
<u>4</u>	<u>11.8%</u>	Between 3 and 6 months
<u>11</u>	<u>32.3%</u>	Between 6 and 12 months
<u>5</u>	<u>14.7%</u>	Over 12 months
<u>7</u>	<u>20.6%</u>	Not sure

8. How satisfied were you with the length of time it took, from the date you first requested a tax hearing, to the date your hearing was actually held?

<u>6</u>	<u>18.2%</u>	Very satisfied
<u>4</u>	<u>12.1%</u>	Somewhat satisfied
<u>6</u>	<u>18.2%</u>	No opinion
<u>11</u>	<u>33.3%</u>	Somewhat unsatisfied
<u>6</u>	<u>18.2%</u>	Very unsatisfied

9. Was your tax hearing before the tax hearings referee held over the telephone, by mail, or in person?

<u>5</u>	<u>14.3%</u>	Telephone
<u>1</u>	<u>2.9%</u>	Mail
<u>28</u>	<u>80.0%</u>	In person
<u>1</u>	<u>2.8%</u>	Other

If in person, how many miles (one way) did you travel to attend the hearing?

<u>28</u>	Average number of miles driven
<u>1 to 100</u>	Range of miles driven

10. If your tax hearing was held in person, how reasonable did you find the distance you had to travel to your hearing?

<u>13</u>	<u>43.3%</u>	Very reasonable
<u>14</u>	<u>46.7%</u>	Somewhat reasonable
<u>0</u>		No opinion
<u>2</u>	<u>6.6%</u>	Somewhat unreasonable
<u>0</u>		Very unreasonable
<u>1</u>	<u>3.3%</u>	My hearing was not held in person.

11. How satisfied were you that the tax hearing provided you an opportunity to discuss your situation and present your side of the case?

<u>12</u>	<u>36.4%</u>	Very satisfied
<u>13</u>	<u>39.4%</u>	Somewhat satisfied
<u>2</u>	<u>6.0%</u>	No opinion
<u>3</u>	<u>9.1%</u>	Somewhat unsatisfied
<u>3</u>	<u>9.1%</u>	Very unsatisfied

12. Overall, how would you rate how your tax hearing referee conducted your tax hearing?

<u>10</u>	<u>31.3%</u>	Excellent
<u>12</u>	<u>37.5%</u>	Good
<u>4</u>	<u>12.5%</u>	Fair
<u>4</u>	<u>12.5%</u>	Poor
<u>1</u>	<u>3.1%</u>	Very poor
<u>1</u>	<u>3.1%</u>	No opinion

13. An audit of a tax return is generally conducted in 2 different ways:

- 1) Computer audit. If error(s) are found, a return is selected for manual audit which is done through the mail or on the telephone by the tax division.
- 2) Audit selection. Based on certain parameters established for audit selection, the Audit Division may visit a business and review and audit its books and records.

Using the above definitions, which of the following did you receive?

<u>4</u>	<u>13.3%</u>	Computer audit
<u>11</u>	<u>36.7%</u>	Audit selection
<u>9</u>	<u>30.0%</u>	Not sure
<u>6</u>	<u>20.0%</u>	Other

14. Did you agree with the final conclusion reached by the Department of Treasury resulting from your tax hearing before the tax hearings referee?

<u>13</u>	<u>41.9%</u>	Agreed
<u>18</u>	<u>58.1%</u>	Disagreed

15. Did you appeal the final decision made by the revenue commissioner after the tax hearing was held?

<u>8</u>	<u>25.8%</u>	Yes
<u>23</u>	<u>74.2%</u>	No

If yes, where did you appeal to? (circle all that apply)

<u>8</u>	<u>61.5%</u>	Michigan Tax Tribunal
<u>3</u>	<u>23.1%</u>	Michigan Court of Claims
<u>1</u>	<u>7.7%</u>	Michigan Court of Appeals
<u>1</u>	<u>7.7%</u>	Michigan Supreme Court
<u>0</u>		Other

16. For each level of appeal listed in question 15, was the Department of Treasury's decision upheld or overruled?

	<u>Upheld</u>	<u>Overruled</u>
a. Michigan Tax Tribunal	1	0
b. Michigan Court of Claims	0	0
c. Michigan Court of Appeals	0	0
d. Michigan Supreme Court	0	0
e. Other	0	0

17. Have you at any time contacted the Legal and Hearings Division to ask questions or express concerns regarding your tax hearing or the hearings process?

<u>10</u>	<u>30.3%</u>	Yes
<u>23</u>	<u>69.7%</u>	No

If yes, indicate the methods that you used to contact the Legal and Hearings Division to ask questions or express concerns. (circle all that apply)

<u>10</u>	<u>71.4%</u>	Telephone
<u>4</u>	<u>28.6%</u>	Mail
<u>0</u>	<u> </u>	Other

18. Overall, how helpful did you find the Legal and Hearings Division to be in answering questions pertaining to your case during times where you initiated contact?

<u>7</u>	<u>36.8%</u>	Very helpful
<u>6</u>	<u>31.6%</u>	Somewhat helpful
<u>5</u>	<u>26.3%</u>	No opinion
<u>0</u>	<u> </u>	Somewhat unhelpful
<u>1</u>	<u>5.3%</u>	Very unhelpful

19. Overall, how would you rate all the tax hearings services that the Legal and Hearings Division provided you (notification and scheduling of the hearing, providing information on your hearing and the hearings process)?

<u>3</u>	<u>12.0%</u>	Excellent
<u>9</u>	<u>36.0%</u>	Good
<u>8</u>	<u>32.0%</u>	Fair
<u>2</u>	<u>8.0%</u>	Poor
<u>1</u>	<u>4.0%</u>	Very poor
<u>2</u>	<u>8.0%</u>	No opinion

Glossary of Acronyms and Terms

CQI	continuous quality improvement.
disclosure officer	A primary liaison official for the commissioner of revenue in all tax exchange programs who monitors and evaluates the use and safeguarding of tax information disclosed to all governmental agencies.
Disclosure Program	Restrictions limiting access to taxpayer information to any person, except for the taxpayer or his, her, or its authorized representative, regarding any facts or information obtained in connection with the administration of a tax.
effectiveness	Program success in achieving mission and goals.
efficiency	Achieving the most outputs and outcomes practical for the amount of resources applied or minimizing the amount of resources required to attain a certain level of outputs or outcomes.
goals	The agency's intended outcomes or impacts for a program to accomplish its mission.
Hearings Tracking System	The management information system used by the Division to administer the taxpayer appeals process.
informal conference	A meeting involving a taxpayer and a Department of Treasury representative before a referee to review and, when appropriate, to resolve a tax dispute pursuant to Section 205.21 of the <i>Michigan Compiled Laws</i> .

internal control	The management control environment, management information system, and control policies and procedures established by management to provide reasonable assurance that goals are met; that resources are used in compliance with laws and regulations; and that valid and reliable performance related information is obtained and reported.
mission	The agency's main purpose or the reason the agency was established.
objective	Specific outputs a program seeks to perform and/or inputs a program seeks to apply in its efforts to achieve its goals.
outcomes	The actual impacts of the program. Outcomes should positively impact the purpose for which the program was established.
performance audit	An economy and efficiency audit or a program audit that is designed to provide an independent assessment of the performance of a governmental entity, program, activity, or function to improve public accountability and to facilitate decision making by parties responsible for overseeing or initiating corrective action.
performance standards	A desired level of output or outcome as identified in statutes, regulations, contracts, management goals, industry practices, peer groups, or historical performance.
referee	An individual who is authorized by the revenue commissioner to conduct an informal conference pursuant to Section 205.21 of the <i>Michigan Compiled Laws</i> .

reportable condition	A matter coming to the auditor's attention that, in the auditor's judgment, should be communicated because it represents either an opportunity for improvement or a significant deficiency in management's ability to operate a program in an effective and efficient manner.
taxpayer representative	A person who is authorized by the taxpayer to represent the taxpayer before the Department of Treasury.